

SENATE BILL 3527

By Overbey

AN ACT to amend Tennessee Code Annotated, Section  
16-15-209, relative to appointment of special  
judges.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated Section 16-15-209 (a), is amended by  
deleting the existing subsection in its entirety, and by substituting instead the following:

(a)

(1) If a special judge is necessary, the judge shall attempt to identify another judge who may serve by interchange, pursuant to § 17-2-208. If another judge cannot serve by interchange, a judge may seek to find any former or retired judge, who will, by mutual agreement, sit as special judge. The special judge shall serve by designation of the chief justice of the supreme court.

(2) If the judge is unable to secure a judge under subdivision (a)(1), the judge may apply to the administrative office of the courts for assistance in finding a judge to sit by designation of the chief justice as a special judge.

(3) Only after exhausting the procedures set out in subdivisions (a)(1) and (2), a judge may appoint a lawyer from a list, on a rotating basis, of lawyers that have been previously approved by the judge or judges of the district or county who are constitutionally qualified, in good standing, and possess sufficient experience and expertise. A lawyer appointed is subject to the following limitations, which shall be made known to persons attending any court proceeding presided over by a lawyer, as evidenced by an entry in the minutes or other permanent record of the court:

(A) The lawyer may preside only if the parties and counsel are notified that the duly elected or appointed judge will be absent and that a practicing lawyer will serve as a special judge;

(B) The parties choose to proceed and not to continue the case pending return of the duly elected or appointed judge; and

(C) The lawyer shall not approve the payment of attorney's fees involving an indigent defense claim or any discretionary fees. A special judge shall approve fees only when the exact amount is set by statute.

(4) At the opening of any court session presided over by a lawyer appointed pursuant to this section, an announcement shall be made to persons in attendance conveying the information contained in subdivisions (a)(3)(A) and (B). The making of such an announcement constitutes compliance with the notice requirements of this section.

SECTION 2. Tennessee Code Annotated Section 16-15-209(d), is amended by deleting the existing subsection in its entirety, and by substituting instead the following;

(d) Notwithstanding subdivisions (a)(1) and (2), a general sessions or juvenile judge who encounters a sudden and unexpected emergency that causes the judge to be absent from court may forego the requirements of those subsections and appoint a lawyer in accordance with subdivision (a)(3). In addition to the information required in subdivision (a)(3), the circumstances requiring the appointment of a lawyer pursuant to this subsection (d) shall be entered upon the minutes or other permanent record of the court

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it.